

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FIRST REGION**

In the Matter of

NSTAR ELECTRIC & GAS
CORPORATION

Employer-Petitioner

and

UNITED STEELWORKERS OF AMERICA,
LOCAL NO. 12004, AFL-CIO, CLC

Union

and

UTILITY WORKERS UNION OF
AMERICA, LOCAL NO. 369, AFL-CIO

Union

Cases 1-UC-815
1-RM-1263

**SUPPLEMENTAL DECISION AND ORDER
PARTIALLY VACATING DIRECTION OF ELECTIONS**

On April 1, 2003, I issued a Decision, Direction of Elections, and Order in the above-referenced proceeding, in which I dismissed the petition in Case 1-UC-815 and, in Case 1-RM-1263, directed elections in five voting groups.¹ On April 7, 2004, the Employer-Petitioner filed a Motion for Clarification in which it raised various questions concerning the five voting groups. Thereafter, on April 19, 2004, I issued an Order to Show Cause, in which I ordered the parties to show cause by April 26, 2004 why I should not hold the elections, as ordered, among:

1) Voting Group (a): The technicians employed by the Employer in the gas meter shop at its Southborough, Massachusetts facility;

¹ On April 20, 2004, I issued an Errata in which I corrected certain errors in my original Decision, Direction of Elections, and Order. I have incorporated the corrections into a new document entitled Corrected Decision, Direction of Elections, and Order, for ease of reference for all parties. A copy of the Corrected Decision is attached.

2) Voting Group (c): The employees employed by the Employer in auto mechanic classifications at its Somerville, Massachusetts facility); and

3) Voting Group (e): The gas sales clerks and installation clerks employed by the Employer in the Gas Sales and Marketing Department at the Summit Building in Westwood, Massachusetts.

I further ordered the parties to show cause why I should not vacate the Decision and Direction of Elections insofar as it ordered elections among the following voting groups:

4) Voting Group (b): The employees employed by the Employer in auto mechanic classifications at its garage in Southborough, Massachusetts;

5) Voting Group (d): The employees employed by the Employer in the Facilities Management Department at its Hyde Park, Massachusetts facility.

The parties have submitted responses to my Order to Show Cause, which I have duly considered.

The Employer-Petitioner asserts that all of the elections should be stayed pending a resolution of the Requests for Review filed with the Board by the Employer-Petitioner and Local 369. In this regard, it asserts that elections in these “fringe” groups are problematic because, due to contractual “change of watch” provisions in the Local 369 contract, Local 369 eligible voters will vacate jobs subject to the election, and lower seniority employees will be involuntarily transferred into those jobs and be disenfranchised from influencing their representative status. It also asserts that a tie vote among the clerical employees employed at the Summit [Voting Group (e)] may result in a “bizarre carve-out” from historical office-clerical representation and/or a challenged ballot investigation over a fringe issue not raised by any party. The Employer-Petitioner states that it has no other objections to the proposed elections among those three voting groups.

The Employer-Petitioner has no objection to vacating the Direction of Election among the auto mechanics in Southborough. It notes, however, that the merger of Framingham into Southborough will be accomplished as soon as possible and asserts that, by staying the elections, the merger of the two locations is likely to be completed, so that the complement of employees in the mechanic classifications will be settled, which should clarify the issue of whether there are good grounds to vacate the Direction of Election among that voting group. The Employer-Petitioner has no objection to vacating the Direction of Election as to the Facilities Management employees in Hyde Park.

Local 12004 requests that I proceed with the election in the units of technicians in the gas meter shop, the auto mechanics in Somerville, and the gas sales clerks and

installation clerks at the Summit, although it objects to the inclusion of a “no union” option on the ballot.

Local 12004 does not object to my vacating the Decision and Direction of Election insofar as it ordered an election among the Facilities Management Department employees at the Hyde Park facility. Local 12004 did not specifically address its position regarding the election among the mechanics in Southboro in its Response to the Order to Show Cause. I note, however, that in an earlier letter dated April 14, 2004, written in response to the Employer-Petitioner’s Motion for Clarification, Local 12004 took the position that, although the three Framingham mechanics have not yet been relocated to Southborough, the plan to move them appears to be definite, so that the election among the mechanics in Southboro should go forward. It asserted that the three current Framingham mechanics and the six Southborough mechanics should vote as to which union would represent them when the transfer takes place.

With respect to Utility Workers Local No. 369, by letter dated April 13, 2004, in response to the Employer-Petitioner’s Motion for Clarification, it took the position that, because of the monthly “change of watch,” all employees who might be affected by the Direction of Elections should be put on notice prior to the change of watch. In that letter, Local 369 also took the position that my Decision should be reviewed by the Board before the “mini-election” process is set in motion. Further, by letter dated April 19, 2004, Local 369 objected to the inclusion of a “no union” option on the ballot. Finally, Local 369 has filed a Request for Review with the Board, a copy of which I have received, in which it raised several other objections to my original Decision, Direction of Elections, and Order, beyond the scope of the particular questions I raised in my Order to Show Cause.

The responses submitted by the parties have not persuaded me to take a course of action different from that outlined in my Order to Show Cause. As for the two unions’ objections to the inclusion of a “no union” option on the ballot, I note that the Board has included such an option in similar cases. See, Boston Gas Co.,² Massachusetts Electric Co.,³ Martin Marietta Co.⁴

Accordingly, I shall hold the elections, as originally ordered in my Decision, Direction of Elections, and Order, among the following voting groups:

Voting Group (a):

All full-time and regular part-time technicians employed by the Employer in the gas meter shop at its Southborough, Massachusetts facility, but

² 221 NLRB 628, 630 (1975).

³ 248 NLRB 155, 158 (1980).

⁴ 270 NLRB 821, 822 (1984).

excluding office clerical employees, guards, and supervisors as defined in the Act.

Voting Group (c):

All full-time and regular part-time employees employed by the Employer in auto mechanic classifications at the garage at its Somerville, Massachusetts facility, but excluding office clerical employees, guards, and supervisors as defined in the Act.

Voting Group (e):

All full-time and regular part-time gas sales clerks and installation clerks employed by the Employer in the Gas Sales and Marketing department at the Summit Building in Westwood, Massachusetts, but excluding all other clerical employees, guards, and supervisors as defined in the Act.

If a majority of the valid ballots in a voting group are cast for United Steelworkers of America, Local No. 12004, AFL-CIO, CLC, the employees in that voting group will be deemed to have indicated their desire to be included in the existing unit currently represented by Local 12004, and it may bargain for those employees as part of that unit. If a majority of the valid ballots in a voting group are cast for Utility Workers Union of America, Local No. 369, AFL-CIO, the employees in that voting group will be deemed to have indicated their desire to be included in the existing unit currently represented by Local 369, and it may bargain for those employees as part of that unit. If a majority of the valid ballots are cast against representation, the employees will be deemed to have indicated their desire to be unrepresented, and I will issue a certification of results to that effect.

Further, I hereby vacate my Decision, Direction of Elections, and Order, insofar as it directed elections among the following voting groups:

Voting Group (b):

All full-time and regular part-time employees employed by the Employer in auto mechanic classifications at the garage at its Southborough, Massachusetts facility, but excluding office clerical employees, guards, and supervisors as defined in the Act.

Voting Group (d):

All full-time and regular part-time employees employed by the Employer in the Facilities Management department at its Hyde Park, Massachusetts facility, but excluding office clerical employees, guards, and supervisors as defined in the Act.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Supplemental Decision and Order Partially Vacating Direction of Elections may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570. This request must be received by the Board in Washington by May 12, 2004.

/s/ Rosemary Pye
Rosemary Pye, Regional Director
First Region
National Labor Relations Board
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street, Sixth Floor
Boston, MA 02222-1072

Dated at Boston, Massachusetts
this 28th day of April 2004.

h:\r01com\decision\uc815 (nstar supplemental decision and order).doc(lfs)